

## § 2.1304

## 10 CFR Ch. I (1–1–03 Edition)

(f) If a hearing is held, the hearing record and decision.

[63 FR 66730, Dec. 3, 1998, as amended at 64 FR 48949, Sept. 9, 1999]

### § 2.1304 Hearing procedures.

The procedures in this subpart will constitute the exclusive basis for hearings on license transfer applications for all NRC specific licenses.

### § 2.1305 Written comments.

(a) As an alternative to requests for hearings and petitions to intervene, persons may submit written comments regarding license transfer applications. The Commission will consider and, if appropriate, respond to these comments, but these comments do not otherwise constitute part of the decisional record.

(b) These comments should be submitted within 30 days after public notice of receipt of the application and addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

(c) The Commission will provide the applicant with a copy of the comments. Any response the applicant chooses to make to the comments must be submitted within 10 days of service of the comments on the applicant. Such responses do not constitute part of the decisional record.

### § 2.1306 Hearing request or intervention petition.

(a) Any person whose interest may be affected by the Commission's action on the application may request a hearing or petition for leave to intervene on a license application for approval of a direct or indirect transfer of a specific license.

(b) Hearing requests and intervention petitions must—

(1) State the name, address, and telephone number of the requestor or petitioner;

(2) Set forth the issues sought to be raised and

(i) Demonstrate that such issues are within the scope of the proceeding on the license transfer application,

(ii) Demonstrate that such issues are relevant to the findings the NRC must

make to grant the application for license transfer,

(iii) Provide a concise statement of the alleged facts or expert opinions which support the petitioner's position on the issues and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely to support its position on the issues, and

(iv) Provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact;

(3) Specify both the facts pertaining to the petitioner's interest and how the interest may be affected, with particular reference to the factors in § 2.1308(a);

(4) Be served on both the applicant and the NRC Office of the Secretary by any of the methods for service specified in § 2.1313.

(c) Hearing requests and intervention petitions will be considered timely only if filed not later than:

(1) 20 days after notice of receipt is published in the FEDERAL REGISTER, for those applications published in the FEDERAL REGISTER;

(2) 45 days after notice of receipt is placed at the NRC Web site, <http://www.nrc.gov>, for all other applications; or

(3) Such other time as may be provided by the Commission.

[63 FR 66730, Dec. 3, 1998, as amended at 64 FR 48949, Sept. 9, 1999]

### § 2.1307 Answers and replies.

(a) Unless otherwise specified by the Commission, an answer to a hearing request or intervention petition may be filed within 10 days after the request or petition has been served.

(b) Unless otherwise specified by the Commission, a reply to an answer may be filed within 5 days after service of that answer.

(c) Answers and replies should address the factors in § 2.1308.

### § 2.1308 Commission action on a hearing request or intervention petition.

(a) In considering a hearing request or intervention petition on an application for a transfer of an NRC license, the Commission will consider:

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(1) The nature of the Petitioner's alleged interest;

(2) Whether that interest will be affected by an approval or denial of the application for transfer;

(3) The possible effect of an order granting the request for license transfer on that interest, including whether the relief requested is within the Commission's authority, and, if so, whether granting the relief requested would redress the alleged injury; and

(4) Whether the issues sought to be litigated are—

(i) Within the scope of the proceeding;

(ii) Relevant to the findings the Commission must make to act on the application for license transfer;

(iii) Appropriate for litigation in the proceeding; and

(iv) Adequately supported by the statements, allegations, and documentation required by § 2.1306(b)(2) (iii) and (iv).

(b) Untimely hearing requests or intervention petitions may be denied unless good cause for failure to file on time is established. In reviewing untimely requests or petitions, the Commission will also consider:

(1) The availability of other means by which the requestor's or petitioner's interest will be protected or represented by other participants in a hearing; and

(2) The extent to which the issues will be broadened or final action on the application delayed.

(c) The Commission will deny a request or petition to the extent it pertains solely to matters outside its jurisdiction.

(d)(1) After consideration of the factors covered by paragraphs (a) through (c) of this section, the Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the FEDERAL REGISTER and served on the parties to the hearing.

(2) Hearings under this subpart will be oral hearings, unless, within 15 days of the service of the notice or order granting a hearing, the parties unanimously agree and file a joint motion

requesting a hearing consisting of written comments. No motion to hold a hearing consisting of written comments will be entertained absent unanimous consent of all parties.

(3) A denial of a request for hearing and a denial of any petition to intervene will set forth the reasons for the denial.

### § 2.1309 Notice of oral hearing.

(a) A notice of oral hearing will—

(1) State the time, place, and issues to be considered;

(2) Provide names and addresses of participants,

(3) Specify the time limit for participants and others to indicate whether they wish to present views;

(4) Specify the schedule for the filing of written testimony, statements of position, proposed questions for the Presiding Officer to consider, and rebuttal testimony consistent with the schedule provisions of § 2.1321.

(5) Specify that the oral hearing shall commence within 15 days of the date for submittal of rebuttal testimony unless otherwise ordered;

(6) State any other instructions the Commission deems appropriate;

(7) If so determined by the NRC staff or otherwise directed by the Commission, direct that the staff participate as a party with respect to some or all issues.

(b) If the Commission is not the Presiding Officer, the notice of oral hearing will also state:

(1) When the jurisdiction of the Presiding Officer commences and terminates;

(2) The powers of the Presiding Officer;

(3) Instructions to the Presiding Officer to certify promptly the completed hearing record to the Commission without a recommended or preliminary decision.

### § 2.1310 Notice of hearing consisting of written comments.

A notice of hearing consisting of written comments will:

(a) State the issues to be considered;

(b) Provide the names and addresses of participants;